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THE OBSERVATOR.

Of New Affairs. Of Engliſh *Men of War Taken by the* French, *and Employ'd againſt us as Privateers. Of the Advantage of Privateers to the* Engliſh *Nation. Of the Court of Admiralty at* Doctors-Commons. *The* Country-man *intends to turn Privateer.*

From **Wednesday** December the 13th, to **Saturday** December the 16th, 1704.

Country-m. MAſter *Obſervator*, your Diſcourſe of Trade and Shipping is highly neceſſary; but how convenient it may be for your own Intereſt is another Queſtion; and therefore conſider, in the firſt Place, whether it be convenient for you to proceed any farther on that Subject?

Obſ. I am not to conſider my own Conveniency, but the Utility of the Publick: Private Advantage muſt always give place to the Publick Good. He that has Reſpect only to his own Profit, does not anſwer the end of his Creation: God ſent us into the World for Higher Ends, and more Noble Purpoſes, than the mean Deſigns of *Private Intereſt*: The Hopes of a good Chriſtian are all fixe d in Futurity; the Deſigns of a good *Engliſhman* are to Support the Weal-Publick in his Days, and to Tranſmit Native Right and Property entire to Poſterity. This is the Deſign of your Friend the *Obſervator*; and if God Bleſs his mean Endeavours in this Point, as in ſome Meaſure he has done, he ſhall be very Thankful, whatever his Portion in this Life may be.

'Tis true I have ſuffer'd for Writing of our Naval Affairs; yet what I have ſaid has been Truth, and what I have offer'd has been deſign'd for the Common Good of our Country; and for theſe things have I been Proſecuted, as having a *Seditious* and *Malicious* Intent, thereby to overturn the Government: God forgive my Proſecutors and others, who Charge me as Guilty of *Sedition*, a thing I Abhor and Abominate.

I muſt keep to my Text, this Noble Lords Speech; and if the Wiſdom of others be Angry hereat, 'tis none of my Fault; tho' they may be Perſons of great Learning and Worth, of great Knowledge and Experience in Naval Affairs, yet a By-Stander may ſee ſomewhat in the Game, that thoſe who Play the Cards may over-look: Thoſe that are not concerned in the Direction of Naval Affairs may ſee a Started Timber, or a Rotten Plank, ſooner than thoſe that Command on the Poop: They are too loftily plac'd to ſee the Garban-ſtreak, and the Keel; or whether the Rudder-Irons are Strong and Sound. And, I think, Notices for the Common Good of the Navy ought to be taken well from all, but more eſpecially from thoſe that have made it their Study and Buſineſs.

This Noble Peer very Juſtly ſays, 'Whoever 'will but take a View of what was done laſt 'Summer, will ſee our Coaſts left Naked, and 'our Trade Expos'd, St. *Paul* Riding in the 'Channel, and our Merchants ſo far from being 'Protected, that even our Men of War them-'ſelves are Taken in our Soundings; And what 'ſharpens our Misfortunes, is to ſee our Enemies 'making uſe of our own Ships againſt us.

I cannot tell you the Exact Number of our Men of War that have been Taken by the *French*, or have been Deliver'd up to them by Cowardly Commanders; But I can tell you the Numbers of ſuch Ships as are now Employ'd as Privateers againſt us, and that have done, and are likely to do us ſo much Miſchief.

Ships	Guns.
Coventry	56.
Diamond	54.
Fowey	32.
Falmouth	54.
George	20.
Jerſey	52.
Salisbury	54.
Squirril	26.
Ludlow	32.
Milford	32.
Ships 10.	Guns 412.

Country-m. But, Maſter *Obſervator*, how many of the *French* Ships have *we* Taken?

Obſ. I hope we have Taken as many of theirs; But that is not the Point in Queſtion. We are now conſidering how, and to what Advantage the *French* Employ thoſe Ships they take from us: You ſee the Advantage they make of their Privateers; what vaſt Advantage in Prizes, beſides the Breed of Seamen for the Service of their Navy. We ought to Encourage Privateers as much as the *French*, who give them the Perquiſites of their Lord High Admiral. Such an Encouragement alone, would, in two or three Years time, enable them to give a Supply of Sailors to the Navy.

Country-m. And why don't we Encourage Privateers more?

Obſ. That's a Queſtion I can't Anſwer. My Buſineſs is to prove that Privateers would be an Advantage to the Kingdom, not only by an Encreaſe of Sailors, but, in a great meaſure, by Guarding our Coaſt, which would be an Eaſe to the Navy, and a great Advantage to the Nation.

And ſince our Noble Patriots, the Peers, have appointed a Committee to conſider of the State of the Nation, in relation to Naval Affairs, we have great Hopes that ſome good Act will be paſs'd for the better Regulating of the Navy: I am ſure nothing can conduce more to the Common Good than ſuch an Act. And if any Encouragement be given to Privateers, ſuch as have carried on a Clandeſtine Trade with *France*, under Pretence of withdrawing Effects, ought to be Excluded from having any Concern in Private Men of War, and I dare preſume, that if Enquiry was made into the few *Engliſh* Privateers, that we ſhall find ſuch Perſons as have been concerned in the *French* Trade, are alſo the greateſt Owners of thoſe Privateers.

Country-m.

Country-m. The *French* Privateers, they tell me, have taken a great many of our *West-India* Ships.

Obs. That's more than you or any Body else knows, tho' it's not improbable it may be so: That Fleet consisted of about 130 Sail, 40 or 50 of which are come into Port, and the rest being separated from their Convoys, some of 'em may be Taken; yet the Merchants may have hopes that many are put into *Portugal*, and perhaps some into *Ireland*, but they must expect to meet with Loss.

We ought to commend *Industry* and *Application* even in an Enemy; and the *French* have shew'd much of both in the late War, as well as this, in Relation to their *Naval Affairs*, and what the *English* Nation has suffer'd by it is matter of Lamentation. They are taking of Prizes in every Nook and Corner in the Universe: Not one part of the Liquid Orb is free from their Shipping, and where ever they come, by Hook or by Crook, by Trade or Privateering, they get something.

Here's a Letter I receiv'd from the *East-Indies*, that gives an Account of the Sufferings of the *English* there, by the vast Numbers of Pirates that are in those Seas, and also by two great *French* Men of War there, that had taken a large *English* Ship richly Laden, and that several others escaped by throwing their Goods over-board to lighten their Ships; so that we see the Necessity of Guarding our Trade Abroad as well as at Home, for the *French* are every where; and not a Ship of the *East-India* Company's that is thus taken, but is a loss to the Revenue by the loss of the Customs of its Cargo.

Country-m. Master, this makes my Head run upon *Privateering*, I don't mean upon four Leg'd *Privateers*, to Cruize upon the *High-ways*, there's Death in that Pot. They wear *Halters* instead of *Cables*, I have a good mind to turn *Pirate*.

Obs. Then thou'lt be Hang'd.

Country-m. Bless me! Did you not just now talk of *Pirates*? What difference is there betwixt a *Pirate* and a *Privateer*?

Obs. One has a Commission to take Ships, and the other has not.

Country-m. Then I'll turn *Privateer*; but what must I do with my Prizes when I have taken 'em?

Obs. You must go to *Doctors-Commons* and get 'em Condemn'd, and then Sell 'em.

Country-m. Aye, and that's the way to be called *Informing Rogue*, as the Honest People were a while ago that complain'd of a *French* Trade.

Obs. This Court of *Admiralty* at *Doctors-Commons*, is worthy of the Consideration of the *Representative Wisdom* of the Nation. How that Court of *Judicature* came to be removed from the *Cinque Ports* to *Doctors-Commons*, and how the Determination of Causes came to lye in the Breast of the proper *Judge* or *Surrogate Depute*; when, as formerly such Causes were determined by Juries of Twelve, as at *Common Law*, would take up too great a part of our Discourse.

But it seems to me, that the Proceedings of that Court are not according to the Old *English Constitution*, and therefore has need of Amendment.

For Proof. *Magna Charta*. Cap. 18. says, *We will not pass upon him nor Condemn him, but by Lawful Judgment of his Peers, or by the Law of* England. Now this must be understood of the Person of a Man only, for this Article of *Magna Charta* forbids any Injustice to be done a Man, either *In bonis terris vel Persona*, and neither of these can be Condemned but by Lawful Judgment of his Peers. But in this Court of Admiralty the Properties of the Subjects, and their Effects are Tryed, Adiudged, and a Definitive Sentence is past, without any Tryal *per Pares*, by Peers, as is here positively directed.

The same Chapter of *Magna Charta* says, *Nulli vendemus, nulli Negabimus, nulli deferremus Justitiam aut Rectum. We will Sell no Man; we will not deny or defer to any Man either Justice or Right.* Whether the Practice of the Court of Admiralty be Conformable to this Article of *Magna Charta*, let those say, who have been kept there so many Months, by perpetual Delays upon various Pretences; the late Case of the Ship, *Friendship*, seized in the River of *Thames*, as coming from *France*, and also the Case of the *Canary* Ships, will fully Demonstrate the Truth of what I say.

I mention this only to show you, that if we Design any good for our Country by Privateers, we must make their passage thro' the Admiralty Court a little more easie; we must remove those Rocks on which the Fortunes of so many Men have been Shipwrack'd, and those Shelves on which so many Ships have lain dry for so many Months together, till the Spring-Tide of Justice has Floated 'em off; which Tide does not flow by the Influence of the *Celestial Bodies*, or by the Direction of *Common Law*, but by the Discretionary Power, Inherent in it self.

I don't commend *French* Examples in all Points, but surely the speedy Execution of Justice on Ships taken as Prizes, by having Courts of Admiralty in most of the Sea Ports of *France*, is the greatest Encouragement that can be to their Privateers.

Country-m. Well, Master *Observator*, when I find good Encouragement I'll either go or send a Privateering. Come, Master, one Glass to the Queen, and let us depart in Peace.

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